

1 UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF OHIO  
3 EASTERN DIVISION

4 -----)  
5 )  
6 IN RE: NATIONAL PRESCRIPTION ) MDL No. 2804  
7 OPIATE LITIGATION )  
8 )  
9 -----) Case No. 1:17-MD-2804  
10 )  
11 THIS DOCUMENT RELATES TO: )  
12 )  
13 Track Eight ) Judge Dan Aaron Polster  
14 )  
15 -----)

16  
17 VIDEOTAPED DEPOSITION OF LEIGH ANNE JACOBSON  
18 TUESDAY, NOVEMBER 8, 2022

19 - - -  
20  
21 HIGHLY CONFIDENTIAL - SUBJECTIVE TO FURTHER  
22 CONFIDENTIALITY REVIEW

23 - - -  
24  
25 Remote videotaped deposition of LEIGH ANNE  
26 JACOBSON, commencing at 9:10 a.m., on the above date,  
27 before Juliana F. Zajicek, Registered Professional  
28 Reporter, Certified Shorthand Reporter and Certified  
29 Realtime Reporter.

30 - - -  
31  
32 GOLKOW LITIGATION SERVICES  
33 877.370.3377 ph | 917.591.5672 fax  
34 Deps@golkow.com

1 other than just your working and on-the-job training  
2 as an intern, right? There -- you don't recall, I  
3 went to training school before I -- before I became a  
4 pharmacist, right?

5 A. I don't --

6 MS. WHITE: Objection to form.

7 BY THE WITNESS:

8 A. I don't recall going to training school in  
9 that sense of what you are saying right there, no.

10 BY MS. DICKINSON:

11 Q. Okay. And I -- I used training school, I  
12 was being a little cute.

13 You just don't recall a formal course  
14 selection that you were required to attend prior to  
15 the time you became a pharmacist at Publix, you don't  
16 recall one sitting here today?

17 MS. WHITE: Objection to form.

18 BY THE WITNESS:

19 A. I don't.

20 BY MS. DICKINSON:

21 Q. Okay. Similarly to what I asked you way  
22 earlier about being a pharmacy intern, do you recall  
23 any written manuals or training materials that you  
24 were required to read that were given to you prior to

1     you becoming a pharmacist for the first time at  
2     Publix?

3             MS. WHITE:  Objection to form.

4     BY THE WITNESS:

5             A.     Publix, for as long as I can recall, has  
6     educated or placed emphasis on changes, et cetera,  
7     through a weekly memo, and it was my responsibility as  
8     an intern to read the menu -- or sorry -- to read the  
9     memo, rather, and ask my supervisor, whether it was my  
10    pharmacist at that time or my actual pharmacy  
11    supervisor for additional questions or concerns.

12                So there would be continuous education  
13    that happened through the weekly memo, as well as  
14    pharmacy supervisors, again, to my knowledge as a  
15    pharmacist, as well in that current role continue to  
16    have regular visits where they are in pharmacies and  
17    discussing and training and encouraging the culture  
18    that we want to -- to continue at Publix.

19    BY MS. DICKINSON:

20             Q.     Okay.  Other than the weekly memo, I'm  
21    just trying to understand, were you given any written  
22    documents or man -- manuals, you know, things that you  
23    were required to read that would educate you right  
24    before you became a pharmacist?

1 same visibility that I described for other stores.

2 BY MS. DICKINSON:

3 Q. You have the same visibility into the  
4 volume of other -- that other stores are selling of  
5 C-IIs and prescription opioids, correct?

6 MS. WHITE: Objection to form.

7 BY MS. DICKINSON:

8 Q. Correct?

9 A. The report that is given to me includes  
10 all of the company's stores and I can then filter down  
11 to my stores. So, again, that information is  
12 provided. Is it something that is there, yes.

13 Q. Okay. Have you ever looked at whether  
14 Store 146 in your time as a pharmacy supervisor was  
15 one of the higher volume sellers of prescription  
16 opioids?

17 Did you ever look at that in the State of  
18 Georgia?

19 MS. WHITE: Object. Objection to form.

20 BY THE WITNESS:

21 A. To my knowledge, Store 146 has not been  
22 one that I have needed to investigate further.

23 BY MS. DICKINSON:

24 Q. Okay. That's not the question I asked. I

1     just need -- I just asked if you had ever looked at  
2     whether that store was one of the highest volume  
3     stores in the State of Georgia during your time as a  
4     pharmacy supervisor.

5                     Did you ever look at that?

6             A.     Again --

7             MS. WHITE: Object to form. Object to form.

8                     Now you can go.

9     BY THE WITNESS:

10            A.     Again, I look at a report as a whole.  
11     That particular report additionally helps identify  
12     stores that could be of concern. And I have not, to  
13     my knowledge, had 146 be, from my observation of the  
14     report, be a -- an additional cause for concern.

15     BY MS. DICKINSON:

16            Q.     How do you determine what a cause for  
17     concern is by looking at that report? What are  
18     reasons that you would have a cause for concern about  
19     certain stores?

20            MS. WHITE: Object to the form.

21     BY THE WITNESS:

22            A.     I'm first going to look at any stores that  
23     would be highlighted and investigate those  
24     coordinating colors if there were any significant

1 concerns -- or I would investigate anything that was  
2 colored, rather, and look at any trend that I myself  
3 might identify.

4 BY MS. DICKINSON:

5 Q. Okay. I think we are going to look at  
6 some of those documents.

7 Are you talking about the documents that  
8 are on the sales dashboard showing the amount of  
9 sales?

10 A. No.

11 Q. Okay. All right.

12 When you are looking at what a store of  
13 concern is, are you looking at the total volume coming  
14 out of that store or are you looking at something  
15 else?

16 MS. WHITE: Object to form.

17 BY THE WITNESS:

18 A. I am specifically in this scenario  
19 referencing the C-II -- the monthly C-II pool report.

20 BY MS. DICKINSON:

21 Q. Okay. And the monthly C-II pool report  
22 shows the total volume of C-IIs done by each store,  
23 right?

24 A. That is part of the data, yes.

1           A.       Yes.

2           Q.       And that was a -- that was training that  
3       was in place and set forth the procedures for  
4       controlled substance threshold increases for pharmacy  
5       supervisors, is that fair?

6           A.       Yes.

7           MS. DICKINSON:   Okay.   Let's put that one aside.

8                       Let's go to Tab 44.   Tab 44 we are going  
9       to mark as Exhibit 29.

10                       (WHEREUPON, a certain document was  
11                       marked Leigh Anne Jacobson Deposition  
12                       Exhibit No. 29, for identification,  
13                       as of 11/08/2022.)

14       BY MS. DICKINSON:

15           Q.       You were involved in your time as a  
16       pharmacy supervisor from 2016 to present in  
17       threshold -- requests for threshold increases,  
18       correct?

19           A.       I got distracted with the reading.   I  
20       apologize.

21                       What was the question?

22           Q.       That's okay.

23                       During the time that you were a pharmacy  
24       supervisor, you were involved in requests to increase

1 thresholds for opioid controlled substances, correct?

2 A. I was involved in the process, yes.

3 Q. Okay. And what -- what part of the  
4 process did you play as a pharmacy supervisor?

5 A. In reviewing if the threshold was  
6 appropriate or not would be a fair generalization.

7 Q. Okay. And when you say "reviewing if the  
8 threshold was appropriate or not," does that mean the  
9 decision whether to increase the threshold was  
10 appropriate or not?

11 A. My understanding would be that my job was  
12 to investigate the initial request, looking at the  
13 utilization of the drug, for example, this particular  
14 patient, evaluating this prescription to make sure it  
15 would be one that would be appropriate to make the  
16 accommodation for.

17 Q. What did you do to investigate whether  
18 that request for the -- this particular patient was  
19 appropriate? What were the things that you looked at?

20 A. It would be difficult for me to remember  
21 this one explicitly.

22 Q. You know what, that was a bad question,  
23 can I just strike that, I don't think I want you to  
24 struggle to do that.



1                   What, I guess, I would rather know is when  
2   you got a request for a controlled substance threshold  
3   increase regarding opioids, did you evaluate all of  
4   the other prescriptions that came before this  
5   prescription in arriving at whether you should  
6   increase the threshold or not or just the prescription  
7   at issue?

8           A.     So for me that would be looking at the  
9   whole usage. One of my first questions when these  
10   come up is: Has another pharmacy closed or is  
11   something going on that could be impacting an increase  
12   in need clearly. Again, a new prescriber, increased  
13   growth, a pharmacy closing, et cetera.

14                   Beyond that, I would historically pull a  
15   Drug Utilization Report and look at the prescription  
16   use of that particular drug as well to just provide  
17   another set of eyes on it and make sure there wasn't  
18   anything concerning for me as well.

19           Q.     What did you do to document what you were  
20   looking at and the due diligence you were doing in  
21   evaluating that threshold increase?

22           A.     A lot of it would have been just pulling  
23   up prescriptions and looking at them through  
24   Enterprise that -- forgive me, I don't know if there

1 is a digital stamp for that or how that is traced,  
2 obviously with HIPAA and so forth. And if there were  
3 questions or it concerns, I might ask the pharmacist,  
4 tell me about this prescription, help me understand.  
5 I'm also looking at those patient profiles for other  
6 medications, are we just filling opioid medications  
7 for them, because that would be a concern for me.  
8 There is a lot that goes into that, both looking and  
9 discussing with the pharmacist as well.

10 Q. What do you do to document all of those  
11 things you just talked about, where could I find that?

12 A. Most times I would believe that I would  
13 e-mail that or e-mail that I have investigated it  
14 and -- and my decision either way on it.

15 Q. Okay. What I'm -- what I'm asking is a  
16 little different. I'm not asking about your decision,  
17 e-mailing what your decision was either to approve or  
18 deny.

19 What I'm asking for is where do I find  
20 written down all of the things you did to investigate  
21 whether the threshold change was appropriate? Where  
22 do I find that? Where would I find that?

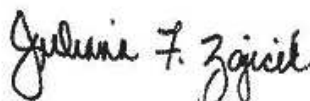
23 A. I don't know that you will find it every  
24 single time because I -- I guess in my training, HIPAA

REPORTER'S CERTIFICATE

I, JULIANA F. ZAJICEK, a Registered Professional Reporter and Certified Shorthand Reporter, do hereby certify that prior to the commencement of the examination of the witness herein, the witness was duly remotely sworn by me to testify to the truth, the whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a verbatim transcript of the testimony as taken stenographically by me at the time, place and on the date hereinbefore set forth, to the best of my availability.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not interested directly or indirectly in the outcome of this action.



JULIANA F. ZAJICEK, Certified Reporter

**From:** Chad Madill </O=PUBLIX/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CHAD MADILL>  
**To:** Bart Bamberg; Leigh Anne Jacobson; Lindsay Burckhalter; Luis Medina; Mike Chavez; Stacy Burke  
**CC:** Chad Madill  
**Sent:** 6/8/2018 11:57:54 AM  
**Subject:** CS Threshold Training for Pharmacy Supervisors  
**Attachments:** CS Threshold Training for Pharmacy Supervisors.docx



Team,

It's important that you review this document prior to our call on Monday. We will discuss if you have any questions.

Thank you,

**Chad Madill, PharmD, MBA**  
**Pharmacy Operations Manager | Atlanta Division | Publix Super Markets, Inc.**  
**Office | 770.952.6601 x31659**  
**Fax | 863.284.3349**  
**[chad.madill@publix.com](mailto:chad.madill@publix.com)**

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# Controlled Substance Threshold Training for Pharmacy Supervisors

## Background

This is training for supervisors to help them understand their roles and responsibilities as they relate to Controlled Substance Ordering and Increase of Thresholds. Publix establishes controlled substance thresholds by store to ensure we are in compliance with DEA regulations, and to prevent potential diversion from suspicious ordering. New stores are set corporately with initial thresholds based on the selected model store. No action is required by the Supervisor and/or Pharmacy team for this step.

## Importance

Supervisors need to understand that they are held equally responsible as the Pharmacist for diversion if it occurs at a store where they have approved threshold increases without conducting proper due diligence to ensure the pharmacy's compliance with DEA rules and regulations.

## The Process

Stores will periodically receive threshold rejections for controls shipping from the warehouse and ABC, but the notifications will come in different formats. Please refer to the 4/18/2018 Weekly Memo for more details regarding notification of the threshold rejection.

Once a store is notified of the rejection, the pharmacist should be the first to investigate the change in business (new patient, surrounding store closure, opening of a new Healthcare Practitioner (HCP) practice, etc). If they believe the increase to be reasonable and justifies a request for increase, a Controlled Substance Threshold Change Request should be submitted via the Publix Connection. (Path: Publix Connection → Pharmacy Operations → Ordering and Receiving Product → Controlled Substance Threshold Change Request).

This request will generate an automated email to the pharmacy, supervisor and Megan McAvoy, Manager of Procurement, Generic Trade. It is imperative that all supervisors understand that **no action is taken to increase this request until a supervisor also evaluates the business justification and provides written approval** to Megan McAvoy and the Pharmacy Operations Manager with the following *suggested* documentation:

- (From the Performance Report in doc direct) Avg Rx/Wk % Chg YTD
- (From the CII Monthly Pull Report): Is the pharmacy highlighted in any category or in CII Rx%? If yes, please provide detail.

*continued on next page*

# Controlled Substance Threshold Training for Pharmacy Supervisors, Continued

## Best Practices

Below is a recap of best practices for reviewing and approving threshold increase requests:

- Please keep in mind, thresholds are based on a 30 day rolling period, not a calendar month
- Review the **product in question** and the **“why”** in the pharmacy explanation in the request
  - Does anything stand out? Is reason vague? If necessary, follow up with Pharmacist for more info.
  - Don't be afraid to ask questions and require more detailed justification
- Evaluate the **requesting pharmacist**
  - Have they properly vetted incoming Rx?
  - Are they comfortable “saying no” to patients when required?
- Review **Store Growth**
  - Review the Pharmacy Performance Report
    - Rx Count Trending
      - Increasing thresholds where Rx count growth is flat or declining should be a red flag
      - Does increase amount match store growth rate?
  - Has there been a change in overall store environment?
    - New HCP practice open?
    - Competitor closing?
    - File Buys?
- Review the monthly **CII Pull Report**
  - Pull up this store only and look for the following:
    - Is column H highlighted red? These are the top 25 stores with highest CII Rx %
    - Is the Store number in Column A highlighted yellow? Those have high dispense % in multiple categories
    - Remaining highlighted Stores in Column A are high in specific drug categories and require additional investigation

## Questions

Please always first contact your POM if you have questions before sending an approval of which you are unsure.



**From:** Leigh Anne Jacobson </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6829B32B6FB448B3AE683EEB5A15E5BC-RLAD283\_9D2>  
**To:** Customer Care  
**Sent:** 7/22/2020 3:01:24 PM  
**Subject:** RE: Standard - Case Ref # 2695291 - PHARMACY - INITIAL



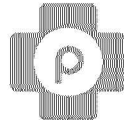
I have called and spoken with Dr. Beecham on this. I have apologized and reiterated that Publix follows GA Law in these situations in that it is the pharmacists license and discretion whether to fill a prescription and we do not have extremes of not filling globally for a Dr, drug, etc. that each prescription is to be evaluated and reviewed if ok to fill.

He appreciated the follow up and the information.

Close Case.

*Thank you,*

**Leigh Anne Jacobson** | Pharmacy Supervisor - Pharmacy Operations  
 Publix Super Markets, Inc.  
 (Phone: (770) 952-6601 ext. 31676)



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**From:** Customer Care <UEPCCCP@publix.com>  
**Sent:** Wednesday, July 22, 2020 2:07 PM  
**To:** Leigh Anne Jacobson <Leigh.Jacobson@publix.com>  
**Subject:** Standard - Case Ref # 2695291 - PHARMACY - INITIAL

The following case could not be resolved by our Customer Care specialist. Please review the information below and provide the specialist with the action taken to resolve the case or provide the specialist with the information needed to respond to the customer. The case will remain open until we receive resolution from your area.

**IMPORTANT NOTE:** Please do not alter the subject line of this email as it contains the case reference number which will allow us to receive your reply.

In addition, please ensure your response is sent to [Customer.Care@publix.com](mailto:Customer.Care@publix.com) (either via a Reply To or forwarded to the mailbox listed) in order to guarantee receipt by Customer Care.

**CUSTOMER INFORMATION**

**Name:** Dr. Allen R. Beecham  
**Address:**  
**Address 2:**  
**City, State & ZIP:** Holly Springs, GA 30188  
**Email:** Not Available

Phone (Home):

Phone (Work):

Phone (Cell): 404-213-2109

Phone (Alt Cell):

Phone (Cell): 678-661-4545 x204

**CASE INFORMATION**

**Received Date:** 07/22/2020 13:28:09

**Contact Source:** Phone

**Pref. Contact Method:** Cell Phone

**ISSUE INFORMATION**

**Reason:** Refuse To Fill Script

**Store:** 636 - The Centre At Woodstock

**Associate Name:** -

**Publix Digital Platform:** Not Available

**Product UPC:** Not Available

**Product Desc:** Not Available

**Item Code:** Not Available

**Summary:**

The customer is concerned with pharmacy refusing to fill prescription.

**Social Media Contact Date:** Not Available

**Verbatim - 07/22/2020 13:31:52**

The customer is concerned with pharmacy refusing to fill prescription.

The patients Dr is calling to speak with the PS.